

Licensing Act 2003 - Hearing Procedure – Grant of a Premises Licence

1. The Chairperson of the Licensing Sub Committee will introduce the Committee members and ask officers to introduce themselves.
2. The Chairperson will then ask the following parties to introduce themselves:
 - a. the applicant, any person representing them and any witnesses they wish to call.
 - b. any person who has made representations, any person representing them and any witnesses they wish to call.
3. The Chairperson will then ask the Licensing Officer to introduce the report and provide any updates.
 - a. Questions to the Licensing Officer may be asked, **solely concerning the report**, by Members, the applicant and by persons making representations.
4. The Chairperson will then invite:
 - a. **any person who has made representations** to present their representations and call any witnesses they may have.

Note: Members of the Sub Committee, followed by the applicant may ask questions of all persons who have made representations to the hearing and their witnesses.
 - b. **the applicant** to present their application, respond to the representations, and call any witnesses they may have.

Note: Members of the Sub Committee, followed by any person who has made representations at the hearing may ask questions of the applicant and their witnesses.
5. **The applicant will then be given the opportunity to sum up**
6. The public hearing will then be concluded, and Members of the Sub Committee will go into Closed session, together with the Councils Solicitor and the Clerk to the meeting.
7. The decision of the Licensing Committee will be given in accordance with the requirements of the Licensing Act 2003 and regulations made thereunder.

Note:

At any time throughout the hearing Members of the Licensing Sub Committee may request legal advice from the Council's Solicitor. Any advice sought during closed session will be included in the notice setting out the decision.

The Committee Hearing will be held in public unless and in accordance with relevant Regulations the Licensing Sub Committee determine that the public should be excluded.

Committee Name and Date of Committee Meeting

Licensing Sub-Committee - 27th August 2025 at 10:00 hours (10am)

Report Title

Consideration of an application (made in accordance with s.17 of the Licensing Act 2003) by Mrs Helen Clayton for the grant of a Premises Licence in respect of the premises known as Wigtox Lounge situated at 33 South Street, Rawmarsh, Rotherham S62 5RF.

Report Author(s)

Diane Kraus, Principal Licensing Officer, Community Safety and Street Scene
Tel: 01709 289536.

Report Summary

On the 10th July 2025 an application for the grant of a Premises Licence was made by Mrs Helen Clayton in respect of the premises known Wigtox Lounge situated at 33 South Street, Rawmarsh, Rotherham S62 5RF.

The applicant, is seeking authorisation to allow the:

- Sale of alcohol (for consumption on & off the premises) on:
 - Sunday to Thursday between 12:00 hours and 23:00 hours;
 - Friday & Saturday between 12:00 hours and 00:30 hours on the day following; and
 - New Year's Eve between 12:00 hours and 02:00 hours on the day following.
- Provision of live & recorded music and the performance of dance (inside only) on:
 - Sunday to Thursday between 12:00 hours and 23:00 hours;
 - Friday & Saturday between 12:00 hours and 00:30 hours on the day following; and
 - New Year's Eve (live & recorded music only) between 12:00 hours and 02:00 hours on the day following.
- Exhibition of films (inside only) on:
 - Sunday to Thursday between 10:00 hours and 23:00 hours; and
 - Friday & Saturday between 10:00 hours and 00:30 hours on the day following.

- Provision of late-night refreshment, for consumption inside the premises, on:
 - Friday & Saturday between 23:00 hours and 00:30 hours on the day following; and
 - New Year's Eve between 23:00 hours and 02:00 hours on the day following.

Representations, both for and against, the application have been received.

Further detail of the application, and representations to it, are provided within the main body of the report.

Recommendations

1. That the Licensing Sub-Committee considers the information contained within this report (and associated appendices) along with any additional information presented at the hearing and subsequently determines the application that has been made.
2. The Licensing Sub-Committee should inform the Licensing Manager of the decision in accordance with the requirements of the Licensing Act 2003 and Regulations made thereunder.

List of Appendices Included

- Appendix 1 Location Plan
- Appendix 2 Application & Premises Layout Plan
- Appendix 3 Letter and Information from Applicant
- Appendix 4 Representation Opposed to the Application
- Appendix 5 Representations Supporting the Application

Background Papers

Rotherham MBC Statement of Licensing Policy 2020 -2025
(available at www.rotherham.gov.uk/licensing)

Revised guidance issued under section 182 of the Licensing Act 2003 (February 2025) available at <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>)

Council Approval Required

No

Exempt from the Press and Public

No

Consideration of an application (made in accordance with s.17 of the Licensing Act 2003 by Mrs Helen Clayton for the grant of a Premises Licence in respect of the premises known as Wigtox Lounge situated at 33 South Street, Rawmarsh, Rotherham S62 5RF.

1. Background

- 1.1 The premises are not currently licensed under the Licensing Act 2003.
- 1.2 Previously the premises operated under a Club Premises Certificate issued to Ryecroft & Rawmarsh Working Men's Club. This Certificate was transitioned over to the Council from the Magistrates Court in 2005. The Certificate was surrendered in 2012. A Premises Licence was then granted in 2013 to Ryecroft Club Limited. The application Company went into liquidation and was dissolved in January 2019, at which time the Premises Licence lapsed.
- 1.2 A location plan identifying the premises is attached at Appendix 1.

2. Key Issues

The Application

- 2.1 On the 26th June 2025 an application for the grant of a Premises Licence was made by Mrs Helen Clayton for the Wigtox Lounge situated at 33 South Street, Rawmarsh, Rotherham S62 5RF. The application, as amended, and accompanying premises layout plan, is attached at Appendix 2.
- 2.2 The amendment to the application was the deletion of reference to the use of the roof top terrace in Section J.
- 2.3 The application replaces an earlier withdrawn application, which had attracted opposition. Mrs Clayton was aware of this, and at the time of making the application, submitted a letter explaining the changes in the application she had made and a leaflet about proposed use of the premises. A copy of both are attached at Appendix 3.
- 2.4 The application seeks to allow the:
- **Sale of alcohol (for consumption on & off the premises) on:**
 - Sunday to Thursday between 12:00 hours and 23:00 hours;
 - Friday & Saturday between 12:00 hours and 00:30 hours on the day following; and
 - New Year's Eve between 12:00 hours and 02:00 hours on the day following.

- **Provision of live & recorded music and the performance of dance (inside only) on:**
 - Sunday to Thursday between 12:00 hours and 23:00 hours;
 - Friday & Saturday between 12:00 hours and 00:30 hours on the day following; and
 - New Years Eve (live & recorded music only) between 12:00 hours and 02:00 hours on the day following.
- **Exhibition of films (inside only) on:**
 - Sunday to Thursday between 10:00 hours and 23:00 hours; and
 - Friday & Saturday between 10:00 hours and 00:30 hours on the day following.
- **Provision of late-night refreshment, for consumption inside the premises, on:**
 - Friday & Saturday between 23:00 hours and 00:30 hours on the day following; and
 - New Years Eve between 23:00 hours and 02:00 hours on the day following.

2.5 The description of the premises, as provided in the application, is:

“The premises comprises of part of what used to be the Rycroft Club. Rycroft Club was situated in two next door buildings, a converted church and the ground floor of a two storey house. This application is in respect of the converted church only. The next door two storey house is now solely residential and forms no part of this application.

The applicant solely relates to the converted church, which will have a three way function.

- I. *Part of the premises will be used as treatment/therapy rooms. However, whilst these room are not part of the application, they are accessed via a doors located within the licensed area. People using the treatments rooms will also share the same toilets as the licensed area. The treatment/therapy rooms will be open between 09:00 hours and 19:00 hours on Monday to Friday, between 09:00 hours and 12:30 hours on Saturday and closed on Sunday.*
- II. *The rear of the premises is used as residential accommodation, with their own entrance/exit, which comprises of:*
 - *three ensuite rooms, with a shared kitchen. These room will be used as emergency short stay accommodations;*
 - *a two bedroom flat’ and*
 - *a studio flat.*

III. The front of the premises will form the licensed area, which will have two fixed bars, one serving alcohol and the other alcohol, together with a range of non-alcoholic beverages and food e.g. coffees, milkshakes, ice creams and a selection of hot and cold snacks. There is also a mezzanine level within in the licensed area, which forms part of the licensed area”.

2.6 The stated opening hours of the premises for the provision of licensable activities are:

- Sunday to Thursday between 10:00 hours and 23:30 hours;
- Friday & Saturday between 10:00 hours and 01:00 hours on the day following; and
- New Year's Eve 10:00 hours and 02:30 hours on the day following.

2.7 The application states that the outdoor consumption of alcohol, food and non-alcoholic drinks will be only allowed on a patio area to the front of the premises until 23:00 on every day. However, customers will be permitted to use this patio to smoke until the premises closes; and that no music, even at a background level, will be provided on the front patio.

2.8 The management controls offered in the application, all of which would be made a condition of Annex 2 of any licence granted, are set out below:

- 1) The CCTV system installed at the premises, shall:
 - a. be maintained fully operational and in use at all times that the
 - b. premises are open;
 - c. make and retain clear images;
 - d. show an accurate date and time that the images were made; and
 - e. cover the inside the premises the externa front patio.
- 2) CCTV systems installed after 2021 should be a full digital systems with wide dynamic range IP cameras (WDR).
- 3) All CCTV images shall be retained for a period of not less than 31 days.
- 4) The CCTV footage shall be controlled and kept in a secure environment to prevent tampering or unauthorised viewing. A record will be kept of any person who accesses the system, the reason why and when.
- 5) A member of staff who is trained to operate the CCTV system, review images and supply footage will be present at the premises at all times when licensable activities are taking place.
- 6) CCTV images shall be immediately made available for review upon request of the Police or an authorised officer of the Licensing Authority for purposes in connection with the prevention and detection of crime and disorder, in line with GDPR guidance.

- 7) A copy of a CCTV image shall be provided within 24 hours upon request of the Police or an authorised officer of the Licensing Authority.
- 8) Suitable signage informing customers that CCTV is in operation shall be displayed in prominent positions inside and outside of the premises.
- 9) A record shall be kept of each member of staff who is authorised to sell alcohol and shall include the staff members full name, address, and date of birth. This record shall be retained on the premises and made available for viewing on request of the Police or an authorised officer of the Licensing Authority.
- 10) A Challenge 25 Policy shall be in operation. This Policy shall require that any person who appears to be under the age of 25 must provide ID prior to being served alcohol. Acceptable forms of ID are a:
 - a. passport;
 - b. UK photo driving licence; or
 - c. military ID card.
- 11) All refusals made under the Challenge 25 Policy shall be logged in a bound book. This log must show:
 - a. date of refusal made;
 - b. member of staff who made the refusal; and
 - c. if refused, whether fake ID was seized.
- 12) Signs notifying customers of the operation of the Challenge 25 scheme shall be displayed at the entrance to the premises and at each point of sale.
- 13) A bound incident book shall be maintained, in which the following shall be recorded:
 - a. incidents of crime and disorder occurring at the premises (both inside & outside), which shall include the date and time of the incident; and
 - b. any action taken, including if the police were called.
- 14) The Challenge 25 log and the incident book shall be kept on the premises and shall be available for inspection upon request of the Police or an authorised officer of the Licensing Authority.
- 15) The DPS, or their nominated deputy, shall check the Challenge 25 log and the incident book at least once a week, and sign and date each check.
- 16) There shall be a zero-drug tolerance policy in operation at the premises, which shall include the requirement that regular checks are carried out by management to prevent the use of drugs by patrons; and that such checks are recorded.
- 17) A copy of the premises drugs policy, and associated records, shall be kept at the premises and made available to the Police or an authorised officer of the Licensing Authority upon request.

- 18) The premises shall operate in accordance with the "ask Angela scheme" and notices to this effect shall be displayed.
- 19) It is considered that, for the nature of the operation of the premises, door supervisors will not be ordinarily required. However, the use of door supervisors shall be risk assessed on an event-by-event basis. A written record of this risk assessment shall be kept on the premises, for a minimum of 6 months, and made available to the Police or an Officer of the Licensing Authority upon request.
- 20) Where engaged, door staff shall be licensed by the SIA.
- 21) It is considered that, for the nature of the operation of the premises, plastic/polycarbonate drinking vessels will not ordinarily be required however, a risk assessment will be undertaken should unusual events take place and management deem it necessary.
- 22) The consumption of alcohol, food and non-alcoholic drinks will not be permitted on the front patio after 23:00 on every day. However, customers will be permitted to use this patio to smoke until the premises closes.
- 23) Customers shall not be permitted to use the roof top terrace or the area to rear of the premises (car park) for the outdoor consumption of alcohol, food and non-alcoholic drinks at any time, nor will they be permitted to smoke in these areas.
- 24) Children 12 years and under must be accompanied and supervised by a responsible adult at all times, both inside & outside of the premises.
- 25) No children, that is any person under 18 years of age, will be permitted to remain on the premises (both inside or outside) after 22:30 hours unless accompanied and supervised by a responsible adult and attending a pre-booked family function or similar event.
- 26) The premises will display a proxy notice in a prominent position explaining that it is an offence for adults to purchase alcohol and then supply it to persons under 18.
- 27) No signage or advertising for any special treatment provided in the adjoining treatment/therapy rooms shall be on display within the licensed area of the premises.
- 28) No adult entertainment or services shall be provided at the premises.

- 29) The DPS shall routinely attend meetings of the local Pubwatch scheme.
- 30) Notices asking people to leave the premises quietly shall be displayed at the premises main exit.
- 31) All staff shall receive training on induction and year thereafter, on the terms and conditions and restriction of this Licence, together with:
- a. operation of 'Challenge 25';
 - b. types of acceptable ID;
 - c. method of recording refusals;
 - d. refusing sales of alcohol to persons who appear to be drunk;
 - e. preventing proxy sales;
 - f. incident recording and when to call the Police
 - g. Drugs Policy;
 - h. Safeguarding children & vulnerable adults; and
 - i. operation of the "ask Angela Scheme".
- 32) Staff training shall be recorded, records shall be kept of the premises and shall, on request, be made available for inspection by the Police or an authorised officer of the Licensing Authority.

Consultation

- 2.9 Consultation on the application has been carried out in accordance with all statutory requirements and the Council's procedure. There is a prescribed period of 28 days following the submission of an application during which time representations in relation to the application may be submitted.
- 2.10 At the end of the consultation period representations, both for and against, the application have been received.

Representations Opposed to the Application

- 2.11 Two Responsible Authorities have made representations against the grant of the application, namely the Licensing Authority and the Community Protection Unit. In addition, representations opposing the application have been received from two Ward Councillors and nine "Other Persons". A copy of the representations opposed to the application is attached at Appendix 4.

Representations Supporting the Application

- 2.12 Fifty-seven representations in support of the application have been received from "Other Persons", a copy of which are attached at Appendix 5.

The Hearing

- 2.13 The applicant, representatives of the Responsible Authorities and “Other Persons” have all been invited to the hearing today. All parties attending, will be given the opportunity to address the Sub-Committee in relation to the matters raised in the application and the representations they have made to it.
- 2.14 Members of the Sub-Committee should give full consideration of application submitted and the and representations to it, together any supporting evidence provided by any party prior to the date of the hearing. Documentary evidence provided on the day of the hearing should only be considered with the consent

3. Options available to the Licensing Sub-Committee

- 3.1 A licensing authority must carry out its functions under the Licensing Act with a view to promoting the licensing objectives:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm
- 3.2 In considering this matter, the Sub-Committee should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be. In reaching the decision, regard must also be had to relevant provisions of the national guidance and the Council’s licensing policy statement. In relation to this application, the options available to the Sub-Committee are:
- To grant the licence subject to the conditions consistent with the operating schedule accompanying the application, which the Sub-Committee may modify to such extent as they consider appropriate; or
 - To reject the whole or part of the application (which may include the omission of certain licensable activities from the licence and / or the refusal to specify a particular individual as the Designated Premises Supervisor).

- 3.3 The statutory guidance makes it clear that Licensing Authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 3.4 The Sub-Committee's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 3.5 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require the Sub-Committee to decide that no lesser step will achieve the aim, the Sub-Committee should aim to consider the potential burden that the condition would impose on the applicant/premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the Sub-Committee ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the licensing objectives and nothing outside those parameters. The Sub-Committee may consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business (if appropriate).
- 3.6 The Sub-Committee is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination. Conditions may be placed on the licence (if granted) and further information in relation to conditions is provided later in this report.
- 3.7 All licensing determinations should be considered on the individual merits of the application. The Sub-Committee's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. Findings on any issues of fact should be on the balance of probability.
- 3.8 It is important that the Sub-Committee give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.

Conditions

- 3.9 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 3.10 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

Proposed conditions

- 3.11 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence holder, which they should carry out before making their application for a premises licence. This would be translated into the steps recorded in the operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 3.12 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

Consistency with steps described in operating schedule

- 3.13 The 2003 Act provides that where an operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 3.14 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder must be clear to the licence holder, enforcement officers and the courts.

Imposed conditions

- 3.15 The Sub-Committee may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises.
- 3.16 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

Proportionality

- 3.17 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

4. Timetable and Accountability for Implementing this Decision

- 4.1 Any decision made by the Licensing Sub-Committee does not have effect until:
- the end of the period given for appealing against the decision; or
 - if the decision is appealed, until the appeal is disposed of.
- 4.2 An appeal may be lodged by either the applicant or a party to the hearing that has made a relevant representation.
- 4.3 Parties to the hearing must be informed of the decision within 5 working days of the hearing (or within 5 working days from the last day of the hearing if it takes place over multiple days).

5. Financial Implications

- 5.1 There are no specific financial implications arising from this application.
- 5.2 However, additional costs may be incurred should the matter go to appeal. In such an eventuality it may not be possible to recover all of the costs incurred. The impact of these additional costs (if any) will therefore need to be met from within existing revenue budgets.

6. Legal Advice and Implications

- 6.1 A Council Solicitor will be in attendance at the hearing to provide appropriate legal advice to the Licensing Sub-Committee in relation to specific aspects of the application / hearing, however the advice below is generally applicable to all applications.
- 6.2 Hearings under the Licensing Act 2003 operate under the Licensing Act 2003 (Hearings) Regulations 2005.
- 6.3 In accordance with Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005, the authority may take into account documentary or other information produced by a party in support of their application, representations or notice either before the hearing or, with the consent of all parties, at the hearing.
- 6.4 The Sub-Committee may accept hearsay evidence, and it will be a matter for the Sub-Committee to attach what weight to it that they consider appropriate. Hearsay evidence is evidence of something that a witness neither saw nor heard but has heard or read about.
- 6.5 The Secretary of State's guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment, and proportionality.
- 6.6 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The guidance is therefore binding on all licensing authorities to that extent. However, the guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this guidance, they may depart from it if they have good reason to do so and can provide full reasons.

- 6.7 In addition to the above, members are reminded that all decisions must be taken in accordance with the Council's Statement of Licensing Policy (adopted 3rd June 2020).
- 6.8 Departure from the guidance and / or Statement of Licensing Policy could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

7. Risks and Mitigation

- 7.1 The statutory requirements in relation to the consideration of this application are detailed in this report. It is essential that the Sub-Committee act in accordance with these statutory provisions and take account of statutory guidance.
- 7.2 Failure to do this exposes the Council to significant risk of legal challenge, the consequences of which could result in financial and / or reputational damage to the Council.
- 7.3 Members are therefore urged to fully consider the information in this report when making a decision regarding this application, and to ensure that any decision made is justifiable, proportionate and based on the promotion of one or more of the Licensing Objectives.
- 7.4 Council officers are present at the meeting today and can provide additional advice to members of the Sub-Committee should this be required. In addition, a copy of the statutory guidance and Statement of Licensing Policy is available for members to review should they wish to do so.

8. Accountable Officer(s)

Diane Kraus, Principal Licensing Officer, Community Safety and Street Scene